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CONSIDERATION OF REPORTS SUBMITTED BY THE STATES PARTIES IN ACCORDANCE WITH ARTICLE 40 OF THE COVENANT

Third periodic reports of States Parties due in 1988 */

Addendum

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

[4 July 1990]

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*/ For the initial report submitted by the Government of Byelorussian SSR, see document CCPR/C/1/Add.27; for its consideration by the Committee, see documents CCPR/C/SR.116, SR.117 and SR.119 and the Official Records of the General Assembly, Thirty-third session, Supplement No. 40 (A/33/40), paras. 521-554. For the second periodic report of the Byelorussian SSR, see document CCPR/C/28/Add.4; for its consideration documents CCPR/C/SR.568, SR.569 and SR.571 and the Official Records of the General Assembly, Fortieth session, Supplement No. 40 (A/40/40), paras. 320-381.

THIRD PERIODIC REPORT OF THE BYELORUSSIAN SOVIET SOCIALIST REPUBLIC ON THE IMPLEMENTATION OF THE INTERNATIONAL COVENENT ON CIVIL AND POLITICAL RIGHTS

1. This report is submitted pursuant to article 40 of the International Covenant on Civil and Political Rights and to the Human Rights Committee's decision on periodicity of 22 June 1981. It supplements the initial and second periodic reports (CCPR/C/1/Add.27, dated 15 June 1978, and CCPR/C/28/Add.4, dated 4 July 1984).

2. Since the submission of the second periodic report, substantial changes have occurred in the life of Soviet society. Over a short historical period steps have been taken to improve the position of the individual in a large number of ways, from the introduction of amendments and additions to the Basic Law of the USSR and the Republic to new electoral laws, from the enshrinement in legislation of new collective rights at enterprises to laws on self-employment and co-operation, from a new provision safeguarding the rights of the mentally ill to a new procedure for appealing to the courts against unlawful actions by State authorities and officials, from the transfer to the church, without compensation, of a number of buildings which had formerly belonged to it, the opening of new monasteries and places of worship and the foundation of new religious communities to the widespread celebrations, with support from the State and the public, of the 1000th anniversary of the conversion of Russia.

3. These are only some of the new steps that had been taken. In prospect is a further series of legislation to create a State ruled by law. The new laws concern freedom of conscience, information and the press, guarantees for the activity of public organizations, and entering and leaving the country. Soviet democracy is being given a firm legislative basis. This thorough immersion in humanitarian matters is in response to the country's internal requirements. Only by guaranteeing the rights and freedom of the individual can society reveal its full potential, raise the level and quality of people's lives, protect the environment and encourage scientific and technological progress.

4. In view of the adoption of new international legal documents, such as the Vienna concluding document, the Republic is now bringing its legislation strictly into line with that document.

5. As part of the continuing efforts to further democratize society and refine the legal basis for State and public affairs, the humanitarian orientation of the Soviet State and legal system is growing and expanding in scope, giving the rights and interests of the individual pride of place.

6. Legislation recently passed includes the Law on State enterprises (associations) of 1987; the USSR Acts on ownership in the USSR, on land, and on leasing; the Byelorussian Act on Nationwide Discussion of Important Aspects of State Activities (1988); a USSR Act on the procedure for appealing to the courts against unlawful acts by officials encroaching on citizens rights (1989); the USSR Contempt of Court Act (1989); the USSR Act on the Status of Judges in the USSR (1989); and the Foundations of Legislation on the Judicial System of the Union of Soviet Socialist Republics and the Union Republics (1989). A Byelorussian Act on elections of people's deputies of the

Byelorussian SSR and an Act on elections of people's deputies to local Soviets in the Byelorussian SSR have also been passed (November 1989).

7. Specific, practical legislation has already been passed in furtherance of the general expansion of the rights of Soviet citizens: the procedure for Soviet citizens leaving and entering the USSR has been substantially simplified, individuals' rights to life and health have been strengthened and greater protection has been afforded to the interests of the family and the child. New penal, criminal procedure and corrective-labour legislation is being drafted. This should more closely mirror the current development of Soviet society, provide more effective protection for citizens' interests and rights, and serve to tighten discipline and the rule of law. The Republic's penal legislation is being improved through the steady introduction of the principles of democracy, ineluctable accountability for criminal behaviour, justice and humanism, a clearer delimitation of offences in accordance with the danger they pose to society, and increased use of non-custodial sentences for petty offenders.

8. The atmosphere of glasnost and the growing democratization of all areas of public and State life are proving favourable to the exercise of citizens' political freedoms, resulting in the creation of a large number of new, independent public organizations; the active use of the political right to peaceful assembly; and the extensive exercise by citizens of their constitutional right to criticize all aspects of State and public life.

9. The Byelorussian SSR is a party to the international covenants on human rights and to other international legal instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Discrimination in Education, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Suppression and Punishment of the Crime of Apartheid, and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. It had ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention against Apartheid in Sports, and has adhered to the International Convention against the Taking of Hostages and the Convention on Crimes and Other Acts Carried Out on Board Aircraft.

10. The Republic is a party to a large number of International Labour Organisation Conventions, such as those on forced labour, the 40-hour working week, maintenance of wages, freedom of association and protection of the right to organize.

11. To afford greater protection for the rights and legitimate interests of people living and working in areas subjected to radioactive contamination as a result of the accident at the Chernobyl nuclear power station and those who have left to find new homes within the Byelorussian SSR, the Council of Ministers has passed a series of decisions safeguarding the rights of those affected by the accident and has drafted and submitted to the Presidium of the Supreme Soviet of the Byelorussian SSR a Byelorussian bill entitled "The rights of Byelorussian citizens affected by radioactive contamination as a result of the accident at the Chernobyl nuclear power station". The bill will shortly be considered by the Byelorussian Supreme Soviet.

READEX

12. In 1989 the Republic accepted the compulsory jurisdiction of the International Court of Justice in the interpretation and application of a range of important international human rights agreements, withdrawing earlier reservations. These agreements are the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the 1952 Convention on the Political Rights of Women, the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, the 1984 Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and the 1979 Convention on the Elimination of All Forms of Discrimination against Women.

13. The recently reconstituted Supreme Soviet of the Byelorussian SSR has taken up a series of laws on a wide range of subjects, expanding civil rights and freedoms and bringing domestic legislation into strict agreement with the international legal documents ratified by the Byelorussian SSR, including the international covenants on human rights.

14. The firm commitment of the Byelorussian SSR to fulfilling its international obligations has been confirmed by the Human Rights Committee's consideration of the country's second periodic report on its implementation of the International Covenant on Civil and Political Rights and by the Byelorussian reports on implementation on the International Covenant on Economic, Social and Cultural Rights, the nine periodic reports on implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, the five periodic reports on implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid, and the report on its implementation of the International Convention on the Elimination of All Forms of Discrimination against Women.

15. Under the legislation of the Republic, the rules of an international agreement apply if they differ from those contained in Soviet legislation (Byelorussian Marriage and Family Code, Article 224; Byelorussian Civil Code, Article 564; Byelorussian Code of Civil Procedure, Article 398).

16. Information on legislation adopted or updated since the consideration of the second periodic report of the Byelorussian SSR is given below.

PART II

Right to self-determination (Article 1)

17. According to the Constitution of the Byelorussian SSR (Article 68), the Republic is a sovereign Soviet Socialist State. As a result of the free self-determination of its people and on the basis of voluntary association and equality, together with the other Soviet Socialist Republics, it has joined to form the Union of Soviet Socialist Republics - an integral, federal, multinational State. As a sovereign State, the Byelorussian SSR has the right to enter into relations with other States, conclude treaties with them, exchange diplomatic and consular representatives and take part in the work of international organizations (Article 74). According to the Constitution, the Byelorussian SSR retains the right freely to secede from the USSR (Article 69). The territory of the Republic may not be altered without its

consent (Article 73). The Republic formulates rules for the use of land, its minerals, waters and forests and the conservation of the environment, etc. (Article 70).

18. The Republic plays an active part in the formulation of international legal documents setting forth legal principles and prescriptions such as the sovereign equality of States, the non-use or threat of force, the inviolability of frontiers, territorial integrity, the peaceful settlement of disputes, non-interference in the internal affairs of States, respect for human rights and fundamental freedoms, equality of rights and the right of peoples to determine their own destiny, co-operation among States and compliance in good faith with obligations under international law.

19. The Republic is active in all forums where the right of peoples to self-determination is discussed, and favours the immediate granting of that right to peoples still under the yoke of colonialism.

20. The rights of the Union Republics are also being extended at the moment, and through the limitation of the powers of the USSR and the Soviet Republics, decentralization, the devolution of a range of governmental functions and the granting of greater independence and responsibility in economic, social and cultural development matters and the protection of the environment, the political institutions which are intended to express and harmonize national interests are being given a more active role to play. Since 1 January 1990, the Byelorussian SSR has been functioning on the basis of full-profit-and-loss accounting and self-financing, meaning that it is economically autonomous and its economic activities are regulated by financial means.

Equality of rights and protection of rights (Article 2)

21. In the Byelorussian SSR the equality of rights of citizens is a principle of the Constitution and is given concrete form in all branches of current legislation. During the report period further legislative consolidation of this principle has occurred.

22. The Byelorussian Code on Administrative Infringements of the Law, adopted on 6 December 1984, contains special articles on the consideration of cases of administrative infringements of the law on the basis of the equality of all citizens. For instance, Article 228 of the Code states:

> Consideration of a case of administrative infringement of the law is based on the equality before the law, and before the body considering the case, of all citizens, independently of their origin, social status, property, race, nationality, sex, level of education, language, attitude to religion, nature and form of occupation, place of residence or any other circumstances.

23. The Act of the Byelorussian SSR "Nationwide Discussion of Important Aspects of State Activities" adopted on 2 February 1988 forbids any direct or indirect limitations of the rights of citizens of the Republic to participate in the discussion no matter what their origin, social status, property or other circumstances (Article 6).

24. With a view to improving the means of ensuring legal protection of citizens' rights and particularly protection by the courts, the Supreme Soviet

of the USSR on 2 November 1989 adopted an Act of the USSR under the title "Procedure for Appealing to the Courts against Unlawful Acts by Officials that Encroach on Citizens' Rights". This Act gives concrete form to a citizen's constitutional right to judicial protection and in particular to the provisions of article 58 of the Constitution of the USSR and article 56 of the Byelorussian Constitution. The preamble to the Act stresses the completeness of the social, economic, political and personal rights and freedoms proclaimed and guaranteed by the Constitution of the USSR, the constitutions of the union and autonomous republics and other laws. Respect for the individual and for national dignity and protection of citizens' rights and freedoms are an obligation for all State bodies, public organizations and officials.

25. The additions and amendments introduced by the Decree of the Presidium of the Supreme Soviet of the USSR dated 16 June 1987 into the Act of the USSR "The Procurator's Office of the USSR" are intended to strengthen legality and order based on due legal process, to enhance the protection of citizens by the law and to delimit public interests more consistently. The new wording of the Act provides in particular that procurators, in using their authority to monitor and supervise, should make sure that State bodies, public organizations and officials act on the basis of socialist legality. In accordance with the rights granted to them and the duties laid upon them the procurators must ensure the protection of law and order, the interests of society and the rights and freedoms of citizens.

26. The Byelorussian Code on Administrative Infringements of the Law includes a special chapter which regulates in detail the procedure for lodging appeals or protests against decisions on cases of administrative infringements. It states, in particular, that an appeal may be sent both to the courts and to the higher administrative level. A citizen has the right to appeal against decisions concerning administrative penalties taken by officials or by collective bodies such as the executive committees of the local Soviets, commissions of the executive committees, etc.

Equality of rights between men and women (Article 3)

27. Byelorussian legislation devotes much attention to providing women, and particularly pregnant women and women with small children, with special privileges ensuring their right to work, to promotion and to participation in public life and giving them a possibility equal to that enjoyed by men of making use of those rights. In the 1980s, particularly after 1984, the legislation on this subject was further developed. It is quoted in the section on articles 23 and 24 of the Covenant.

28. Provision is made in the country's short-term, medium-term and long-term programmes for socio-economic development to make it easier for women to make effective use of their legally recognized rights, equal to those of men, to work, to receive an education and to participate in public, political, cultural and other social activities, by improving their conditions of life and work, by extending help to families with children etc. Extra leave without pay for women looking after children was universally extended to the child's third birthday with effect from 1 December 1989 by decision of the USSR Council of Ministers dated 22 August 1989, entitled "Extended leave from work for women with young children". Leave on part pay has been extended until the child reached 18 months.

29. The more active involvement of women in the social and political life of the country, and the provision of extended possibilities for them to protect their rights and lawful interests have been promoted by the widespread formation in establishments and in undertakings of such public organizations as women's councils, which have been united in a single system headed by the Soviet Women's Committee.

Right to life (Article 6)

30. At the present time the USSR is conducting a comprehensive and active study on the possibility of substantially reducing application of the death penalty by cutting down the number of crimes for which the ultimate sentence can be handed down. An example of extending the possibility of reprieving persons sentenced to death is the Decree of the Presidium of the Supreme Soviet of the USSR dated 23 May 1986 "Supplementing Article 23 of the Foundations of Criminal Legislation of the Union of Socialist Soviet Republics and the Union Republics", which provides that when a death sentence is commuted to a sentence of imprisonment, the term shall be for over 15 years but not more than 20 years.

31. A new draft of The Foundations of Criminal Legislation is now being thoroughly discussed. The draft would significantly reduce the number of crimes for which capital punishment could be ordered.

32. Another aspect of the right to life regulated in detail by Soviet legislation is compensation for harm caused to the life and health of citizens. On 3 July 1984, with a view to strengthening protection of the citizen's right to life and health and reducing accidents at work, Decision No. 690 of the Council of Ministers of the USSR laid down rules for compensation by enterprises, establishments and organizations for damage caused to workers and employees through injury or other impairment of health connected with their performance of their working tasks. A decision of the State Committee of the USSR on Labour and Social Questions and of the Presidium of the All-Union Central Council of Trades Unions dated 13 February 1985 brought into force instructions for applying those rules. In these instruments the basic principles governing compensation for harm caused to the life and health of citizens were further developed. Workers and employees who fully or partially lose their capacity for work as a result of injury through the fault of the organization for which they work must be fully compensated by that organization for the harm caused.

33. In addition to compensation for lost wages the victim can also receive compensation for additional expenditure incurred through the damage to his health: expenditure for extra food, the purchase of medicaments, the fitting of prostheses, nursing care, sanatorium and health resort treatment including the fare to the place of treatment and back and where necessary that of the person accompanying the victim, the procurement of special means of conveyance, major repairs to them, the purchase of fuel and some other items.

34. Since the adoption of the International Covenant on Civil and Political Rights the concept of the right to life has acquired a broader interpretation in international law, covering the individual right of each person and the collective right of each people to inhabit a world without an arms race and free from nuclear and other weapons of mass destruction. The Byelorussian SSR

believes that preserving international peace and averting a nuclear catastrophe are crucial to the enjoyment of both the right to life and the entire range of political, civil and other human rights.

Prohibition against subjecting people to torture or to cruel, inhuman or degrading treatment or punishment (Article 7)

35. As stated in the two previous reports, Byelorussian legislation has consistently prohibited subjecting anybody to torture or to cruel, inhuman or degrading treatment or punishment. In the international arena the Republic has also consistently spoken in favour of active international co-operation to put an end to torture. On 21 January 1987 the Presidium of the Supreme Soviet of the USSR adopted a Decree "Ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Forms of Treatment and Punishment".

36. The Committee on Torture at its November 1989 session considered a report from the Byelorussian SSR on its fulfilment of its international obligations under the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

37. A substantial safeguard against torture and other impermissible methods of investigation is afforded by article 14 of the Foundations of Legislation on the Judicial System of the USSR and Union Republics, which grants suspects and accused persons the right to defence. This is guaranteed by the presence of a defence attorney from the moment they are detained, arrested or charged.

Prohibition of slavery, the slave trade or forced labour (Article 8)

38. There is no slavery, nor any slavery-like practices, in the Byelorussian SSR.

39. The growth of social wealth and the well-being of the nation and of each individual Soviet citizen derive from the non-exploitative labour of the Soviet people. Socially useful labour and its results determine the position of the individual in society (Article 14 of the Byelorussian Constitution). The right to work as defined by the Constitution (Article 38) includes the right of every citizen of the Republic freely to choose a profession. This provision is amplified in article 2 of the Labour Code of the Byelorussian SSR, which establishes the right to work, i.e. to guaranteed employment and pay in accordance with the quantity and quality of the work performed but not below the State established minimum, including the right to choose a trade or profession, type of job and work in accordance with one's inclinations, abilities, training and education, taking due account of the needs of society. This right is ensured by the socialist economic system and the steady growth of productive forces, by free vocational and professional training, improvement of skills and training in new trades or professions, and by development of the systems of vocational guidance and job placement.

The right to freedom and security of person (Article 9)

40. The efforts made by the Soviet Union since 1985 to put into effect the policy of perestroika with a view to the universal confirmation of the principle of social legality and the equality of citizens before the law have made it necessary to develop a set of measures specially designed to improve the effectiveness of the work of bodies for protecting the rights

of the citizen. A decision of the Central Committee of the CPSU dated 20 November 1986 was devoted to this under the title of "Further consolidation of socialist legality and order based on due process of law, and the strengthening of protection of citizens' rights and lawful interests". The unswerving observance of the laws and the further strengthening of guarantees of citizens' rights and lawful interests are regarded as a necessary condition for the normal functioning of the Soviet political system and as a most important integral aspect of perestroika. Every case in which legality is infringed, the decision goes on to say, must on principle be sharply assessed and subjected to rigorous analysis and persons guilty of committing actions against the rights of people must be punished with all the severity of the law. The decision gives guidance on restructuring the work of the courts, the Procurator's Office, the militia and other bodies charged with defending the law so that they reliably guarantee protection of the interests of the State and the rights of the citizens.

41. The amendments and additions of 16 June 1987 introduced into the Act of the USSR "The Procurator's Office of the USSR" lay stress on concern for comprehensively guaranteeing the constitutional rights of citizens. In the new wording of article 3 of the Act, it is stressed that the struggle to prevent infringements of the laws designed to ensure the rights and lawful interests of citizens is an independent sector of the work of the Procurator's Office. Glasnost in the activities of the bodies depending on that Office is intensified. Procurators are responsible for informing the Presidiums of the Supreme Soviets and Councils of Ministers of the Union and Autonomous Republics, the local Soviets of People's Deputies and work collectives about progress in ensuring observance of the law and respect for the due process of law (some other provisions of the Decree are commented on in the section on Article 2 of the Covenant).

42. In January 1988 the Presidium of the Supreme Soviet of the USSR in a Decree approved "Regulations on the conditions and procedure for providing psychiatric care", establishing the procedure for preserving the rights and lawful interests of persons suffering from mental disorders, and legal guarantees against possible errors and abuses in providing psychiatric care for the population. The regulations make it a criminal offence for a person known to be healthy to be placed in a psychiatric hospital. Compulsory treatment of mentally ill persons who have committed dangerous acts punishable under the criminal law is to be carried out in the psychiatric hospitals of the health authorities. The regulations guarantee the right of citizens to appeal to the courts in cases where they do not agree with the decisions of the psychiatrists and psychiatric boards. They are guaranteed legal assistance by a lawyer with a view to ensuring that their rights are upheld.

43. A Decree of the Presidium of the Supreme Soviet of the Byelorussian SSR dated 30 July 1987 added article 124-2 to the Byelorussian Penal Code, making it a crime to put a person known to be mentally healthy into a psychiatric hospital. Making such actions a crime is a substantial safeguard of the inviolability of the person. By Government decision, psychiatric institutions have been transferred from the Ministry of Internal Affairs to the health-care system.

The right of persons deprived of their liberty to be treated with humanity (Article 10)

44. A Decree of the Presidium of the Supreme Soviet of the Byelorussian SSR dated 2 April 1985, under the title "Amendments and additions to the Foundations of Criminal Legislation of the USSR and the Union Republics and the Foundations of Corrective-Labour Legislation of the USSR and the Union Republics", has made the criminal punishment system more humane. Corresponding changes have been made to the Byelorussian Code of Criminal Procedure. These have expanded the use of sentences of confinement in colony-settlements instead of corrective-labour colonies of other types.

45. A Decree of the Presidium of the Supreme Soviet of the Byelorussian SSR dated 5 August 1988 amended article 60 of the Byelorussian Corrective Labour Code. It abolished the reduced dietary standards for persons in punishment or disciplinary isolation units, cells and cell-like premises in general-régime, intensified or strict-régime colonies and in solitary confinement, while other amendments and additions to the Code provide for more humane treatment of persons serving sentences in places of confinement.

Prohibition of imprisonment on the ground of inability to fulfil a contractual obligation (Article 11)

46. As indicated in the previous reports, the legislation of the Byelorussian SSR makes no provision for imprisonment on the ground of inability to fulfil a contractual obligation, and no such cases have ever been brought before the courts.

Freedom of movement and choice of residence; right to leave any country (Article 12)

47. As already indicated in the previous reports, citizens of the Byelorussian SSR enjoy freedom of movement, free choice of residence and other rights provided for under article 12 of the Covenant.

48. The right freely to leave and return to the country has recently undergone substantial changes in that a large number of restrictions have been lifted. A draft Act of the USSR on entry and departure drawn up by the Ministry for Foreign Affairs of the USSR with the help of a number of other State, Union and republican bodies and organizations is before the Supreme Soviet of the USSR for consideration. The draft would significantly simplify the procedure for processing exit documents, rescind the 1967 Decree stripping those leaving the country of their citizenship, and set up a more democratic procedure for temporary departure from and return to the USSR.

Expulsion of aliens (Article 13)

49. Besides the Act of 24 June 1981 on the legal status of aliens in the USSR which was mentioned in the previous reports, the Presidium of the Supreme Soviet of the USSR on 25 August 1987 passed a Decree on measures for preventing infection with the AIDS virus. The Decree provides that any foreign citizen in whose blood the AIDS virus is detected or who declines to undergo the required medical examination will be requested to leave the USSR voluntarily and in case of refusal to depart, the appropriate coercive measures will be applied.

Equality of all citizens before the courts; right to a fair hearing (Article 14)

50. On 4 August 1989 the Supreme Soviet of the USSR passed the Act on the Status of Judges in the USSR, establishing basic safeguards of the independence of judges and people's assessors, the procedure for their election, their rights and duties, and the procedure for recall and dismissal before their term expires. (The Act came into effect on 1 December 1989.) The Act repeats the constitutional prescription of the independence of judges and people's assessors. Article 3 states that the independence of judges and people's assessors is ensured by means of the legally established procedure for their election and dismissal, the inviolability of judges and people's assessors, the strict juridical procedure for the administration of justice, the privacy of the discussion among judges before verdict is passed and a prohibition on demands for it to be made public, liability for contempt of court or interference in the resolution of specific cases, the establishment of the organizatonal and technical conditions necessary for courts to function, and material and social provision for judges in keeping with their eminent status.

51. A judge or people's assessor cannot be held criminally liable for actions undertaken in performance of his duties in the court, nor detained or arrested without the consent of the Soviet which elected him.

52. Any citizen of the USSR aged 25 or over with advanced legal training and not less than two years' experience working in the legal field and who has passed the qualifying examination may be elected a people's assessor. Judges to all courts are elected for 10-year terms. People's assessors to all courts are elected for five-year terms (Article 10 of the Act on the Status of Judges).

53. The Supreme Soviet of the USSR passed the Contempt of Court Act on 2 November 1989. (The Act came into effect on 1 December 1989.) The Act makes it a criminal offence (punishable by imprisonment) to seek to influence judges or people's assessors in any manner whatsoever with a view to obstructing the thorough, complete and objective consideration of a specific case, to threaten a judge or people's assessor with murder, violence or destruction of property, or to abuse a judge or people's assessor (Articles 1 to 3).

54. On 17 November 1989 the Supreme Soviet of the USSR passed the Foundations of Legislation on the Judicial System of the USSR and Union Republics (these came into effect on 1 December 1989), defining the court system, the tasks of the courts and the principles governing the administration of justice.

55. Article 7 of the Foundations provides legislative backing for the right of citizens to defence before the courts. It states: "Citizens of the USSR are entitled to defence before the courts against unlawful acts by the organs of State control or officials, and against any encroachments upon their honour, dignity, life, health, personal freedom or property, or other rights and freedoms provided for in the Constitution of the USSR, the Constitutions of the Union Republics and Soviet law. A different procedure for the protection of the rights and legitimate interests of citizens may be established only by act of the USSR or Union Republics."

56. The Act contains an extremely important stipulation (Article 14) guaranteeing suspects and accused persons the right to defence. This is ensured through the attendance of a defence lawyer from the moment that they are detained, arrested or charged.

57. An accused person is considered innocent until his guilt is established as prescribed by law and declared in the sentence of a court which has entered into legal force.

58. A draft act of the Byelorussian SSR on the judicial system of the Republic is currently under discussion in committee in the Supreme Soviet of the Republic.

Right to freedom of thought, conscience and religion (Article 18)

59. The Byelorussian Constitution (article 50) and the regulations on religious associations approved by Decree of the Presidium of the Supreme Soviet of the Byelorussian SSR on 27 February 1977, as amended on 3 February 1983, guarantee citizens freedom of conscience, i.e. "the right to profess or not to profess any religion, and to conduct religious worship or atheistic propaganda. Incitement of hostility or hatred on religious grounds is prohibited". The church in the Byelorussian SSR is separate from the State, and the school from the church.

60. All believers, no matter what religion they profess, are citizens of the country with full rights. The overwhelming majority of them are playing an active part in productive and social life and solving the tasks of perestroika. A bill now being prepared concerning the freedom of conscience takes into account all modern realities.

The right to hold and express opinions without interference (Article 19)

61. The extension of guarantees and the step-by-step implementation of the right of Soviet citizens to hold and freely express their opinions without interference are important components of and effective instruments for the implementation of the perestroika policy being carried out in the country.

62. A Decree of the Presidium of the Supreme Soviet of the Byelorussian SSR dated 25 November 1985 added article 136-1 to the Byelorussian Penal Code, making it a criminal offence for an official knowingly to infringe the rights and lawful interests of a citizen in order to persecute him for putting forward suggestions, statements or complaints or for voicing criticism in them in accordance with established procedure, or for voicing criticism in any other manner. The offence is considered to be markedly worse if significant harm is done by the official's action to the citizen's rights and legally protected interests.

63. Legal guarantees of the effective exercise by Soviet citizens of the right to hold and express their opinions without interference are enshrined, as was noted in the previous reports, in the Byelorussian Constitution and other legislation. Widespread ways of exercising the right to free expression of opinions include speeches by citizens at meetings in their places of work or residence and the sending of letters, complaints and proposals to State bodies and public organizations, which are obliged to consider such documents

in accordance with procedures laid down and to send proper replies to them. The right to complain of the actions of officials or State and public bodies is a constitutional one (Article 58 of the Byelorussian Constitution). It has been given practical form in the Act of the USSR already mentioned, "Procedure for appealing to the courts against unlawful acts by officials that encroach on citizens' rights", adopted by the Supreme Soviet of the USSR on 2 November 1989 and in the decision of the Presidium of the Supreme Soviet of the USSR "Appeals by citizens to the Supreme Soviet of the USSR" dated 17 February 1987, where such appeals are described as one of the forms of democracy. It is laid down that all organs of State power must react promptly and in accordance with the law to the critical comments made in such appeals.

64. A Soviet citizen is also entitled to write to the newspapers and journals with a request to publish letters, notes, appeals and other materials or also simply to send letters or telegrams to any of the organs of the mass media - newspapers, magazines, radio and television. The mass media regularly publish citizens' letters on problems of Soviet and international life or reviews of such letters.

65. A concrete step in this direction was the adoption by the Supreme Soviet of the Byelorussian SSR on 2 February 1988 of an Act of the Byelorussian SSR under the title of "Nationwide discussion of important aspects of State activities" (an exposition of this Act is given in the section relating to Article 25 of the Covenant).

Prohibition of propaganda for war and racial hatred (Article 20)

66. In addition to the information contained in the previous reports, it should be noted that article 28 of the Constitution of the Byelorussian SSR expressly states that "in the Byelorussian SSR, war propaganda is banned".

67. In connection with article 20, paragraph 2, of the Covenant, it is appropriate to cite article 62 of the Constitution, which states that "it is the duty of every citizen of the Byelorussian SSR to respect the national dignity of other citizens and to strengthen the friendship of the nations and nationalities of the multinational Soviet State" and article 67, which states that "it is the internationalist duty of citizens of the Byelorussian SSR to promote friendship and co-operation with peoples of other lands and to help maintain and strengthen world peace".

The right of peaceful assembly (Article 21)

68. The holding of assemblies and meetings of citizens to discuss the most varied aspects of the internal and external policy of the Soviet State and of Soviet and international life is widespread in the Soviet Union. Assemblies are convened on the territorial principle in citizens' places of residence to discuss and decide questions of direct interest to them. For this purpose in the countryside meetings of all the adult inhabitants of the village are regularly convened. Citizens' assemblies at their places of work are held to discuss both questions of production and other matters of interest to the workers in the enterprise concerned.

69. At the present time the question is being discussed of improving the legal regulation of conditions and procedures for holding peaceful assemblies, processions and demonstrations. In the period of perestroika the citizens of

the Byelorussian SSR have made particularly active use of their constitutional rights of peaceful assembly. Peaceful assemblies, meetings, processions and demonstrations are held quite often, on occasion by people who do not share the official point of view. However, such activities must not be accompanied by infringements of public order.

70. In 1988 the Council of Ministers of the USSR annulled paragraphs 1 and 2 of the Decree of the Council of Peoples' Commissars of the USSR dated 15 May 1935 "The procedure for permitting the holding of congresses, conferences and meetings of trade union organizations". Now such meetings may be held without prior permission.

71. The Presidium of the Supreme Soviet of the Byelorussian SSR, in a decree dated 4 February 1988, approved regulations governing the organization and holding of meetings, political gatherings, street processions and demonstrations. These require demonstrations, political gatherings and street processions to respect the law, the residence regulations, public order, the rules of morality and the rights and interests of other citizens. The organizers of such events must apply in writing for permission to the executive committee of the Council of People's Deputies not later than 10 days before they take place, and the committee must render its decision no later than 5 days before the proposed date. If permission is refused (reasons must be given) the organizers can appeal to a higher executive and policy-making body. The executive committee need not be informed of political gatherings, meetings and other events held by the labour collectives of enterprises, institutions and organizations in their own buildings, on other premises or at the enterprises concerned.

Freedom of association (Article 22)

72. The right of Byelorussian citizens to freedom of association, including the right to form trade unions and join them, was considered in detail in the first two reports. Information on the rights and activities of trade unions in the Byelorussian SSR is also to be found in the reports of the Byelorussian SSR on the implementation of the International Covenant on Economic, Social and Cultural Rights.

73. The USSR law on State enterprises (associations) mentioned above helps Soviet citizens to exercise in practice the right of association and consolidates the legal basis for their active enlistment in economic and public activities connected with the socialization and self-expression of individuals with the help of and through the medium of work collectives and public organizations.

Protection of the family and the child (Articles 23 and 24)

74. The constitutional provisions aimed at ensuring that society and the State protect the family and children have now been developed further and have found practical application in the expansion of aid to young families and the granting of additional privileges to pregnant women and women with children. A Decree of the Presidium of the Supreme Soviet of the USSR, "Extension of privileges for working pregnant women and women with minor children", dated 2 September 1987, helps to provide working women with the more favourable working conditions necessary for the harmonious combination of work in social

production with bringing up children. In fulfilment of this Decree corresponding amendments were made to the Foundations of Labour Legislation of the USSR and the Union Republics.

75. Under decision No. 117 of the Council of Ministers of the USSR and the All-Union Central Council of Trade Unions, entitled "Increasing the period of paid leave to look after a sick child", dated 20 October 1987, from 1 November 1987 onwards a medical certificate with pay can be issued for up to 14 days to enable a working woman to look after a sick child.

76. Soviet legislation devotes special attention to a system of measures providing legal safeguards for children in the event of a divorce.

77. Special measures are laid down in Soviet legislation so that not a single child is left neglected and so that all children have everything they need for their complete development. For that reason special attention is paid to every type of protection for the rights and interests of children who have been deprived of parental care. This is shown by the decisions of the Central Committee of the CPSU and the Council of Ministers of the USSR adopted on 24 January 1985 and 31 July 1987 concerning measures aimed at improving the upbringing, education and material care of orphan children and children deprived of parental care in infant homes, children's homes and boarding schools.

78. A Byelorussian division of the V I Lenin Soviet Children's Fund was set up in 1980. The division's resources are made up of voluntary contributions, donations and monies allocated by public organizations, unions of creative workers, the work collectives in enterprises and establishments and individual citizens. The Fund does not have to pay taxes, State and customs duties or other forms of levy. It is concerned with the education, upbringing and material care of children and adolescents, particularly orphans.

79. By a decision of the Council of Ministers of the USSR and the All-Union Central Council of Trade Unions entitled "Extended leave for mothers with young children", leave on part pay to look after a child has been extended until the child reaches the age of 18 months (since 1 July 1990 in the Byelorussian SSR), and unpaid leave to look after a child has been extended until the child's third birthday with effect throughout the Soviet Union as of 1 December 1989. The additional leave is counted towards a worker's overall uninterrupted period of employment, and towards her accumulated experience in a particular field of work.

The right to take part in the conduct of public affairs (Article 25)

80. A further democratization of Soviet society, the active involvement of the public in guiding the affairs of society and the State and the steady implementation of citizens' right to take part in the conduct of public affairs are at the heart of the current policy of perestroika. The right to take part in the conduct of State and public affairs is extended through the opportunity to elect and be elected to Soviets of People's Deputies and other elected State bodies and to participate in nationwide discussions and ballots, in people's control, in the work of State organs, public organizations and independent public bodies, and in meetings of labour collectives and neighbourhood residents.

81. As mentioned above, the Supreme Soviet of the Byelorussian SSR on 2 February 1988 adopted an act of the Byelorussian SSR on "Nationwide Discussion of Important Aspects of State Activities" with a view to encouraging direct democracy and further expanding the practice of involving citizens in the conduct of State affairs through public organizations. The Act will help to strengthen the legal guarantees of citizens' involvement in decisions on important aspects of State and public affairs on the basis of glasnost, comparing and taking account of different opinions and proposals expressed by the workers. It lays down the procedure for nationwide discussion on the important aspects of State activities and the basic rules to govern popular discussion of important local issues.

82. The Act prohibits any direct or indirect restrictions on the rights of Soviet citizens to take part in discussions on account of their descent, social status, property, race or nationality or other similar circumstances. It stipulates that officials in State and public bodies will be held accountable for any violations of its provisions, as will any persons preventing Soviet citizens from freely exercising their right to take part in the discussions.

83. Bills and draft decisions affecting the general direction of the country's political, economic and social development, the exercise of citizens' constitutional rights, freedoms and duties and other crucial matters of state lying within the purview of the Republic are put out for nationwide discussion. The Act establishes machinery for the organization of a thorough discussion and for summarizing and taking account of the proposals and comments made by citizens and other participants in the discussions.

84. The Acts recently passed on elections of people's deputies of the Byelorussian SSR and elections of people's deputies to local Soviets of People's Deputies in the Byelorussian SSR extend still further the mechanism of people's power, and the new system of people's power is gradually taking shape. The new features of the system are associated with the objectives of the first stage of political reform, during which the top rank of Soviets of People's Deputies has been reconstituted, and the new constitutional arrangements governing the structure of central power, the electoral system and the principles governing and procedure for holding elections have been put to the test. New systems of organs of power are being established in the Union Republics and locally, in provinces, cities and rural areas.

Protection against discrimination (Article 26)

85. Virtually every piece of legislation of the USSR and Union Republics relating to the rights and duties of Soviet citizens and aliens prohibits discrimination and affords protection against discrimination.

86. The limitation of a citizen's rights, no matter what race or nationality he may belong to, and likewise the establishment of privileges, are prohibited. This provision is enshrined in the Byelorussian Constitution (Article 34).

87. Byelorussian legislation affords legal safeguards against racial discrimination in any form and guarantees of the equality before the law and the courts of all citizens, irrespective of their descent, social status,

property, race, nationality, sex, education, language, attitude towards religion, nature of employment, place of residence or other circumstances (Byelorussian Constitution, Articles 32, 150, 151, 154, 155, and 158).

88. Any direct or indirect restrictions on the electoral rights of Byelorussian citizens on account of their descent, social status, property, race, nationality, sex, education, language, attitude to religion, duration of residence in a given place, or type or nature of employment is prohibited under the Byelorussian Act on elections of people's deputies of the Byelorussian SSR and the Byelorussian Act on elections of people's deputies to local Soviets of People's Deputies, dated 27 October 1989. A similar provision is contained in the Byelorussian Act on nationwide discussion on important aspects of State activities (Article 6).

Rights of Minorities (Article 17)

89. How the equality of national and other minorities is assured was gone into in detail in the first and second reports. It should be added that the Byelorussian SSR has abolished the social, economic and other prerequisites and conditions for any kind of infringement of minority rights to exist.

90. The principle that all citizens of the Byelorussian SSR have an equal right to an education irrespective of their descent, social status, property, race, nationality, sex, language, attitude towards religion, type or nature of occupation, place of residence or other circumstances is enshrined in the Byelorussian Education Act of 3 June 1987. According to that Act, aliens and stateless persons living in the territory of the USSR enjoy the same entitlement as Soviet citizens to receive an education in the Byelorussian SSR in accordance with the procedure laid down by the legislation of the USSR.

91. The constitutional principle that there should be no discrimination on racial or national grounds or for other reasons has also been reflected in the Byelorussian Act on nationwide discussion of important aspects of State activities (1988), the Byelorussian code on Administrative Infringements of the Law (1984) and other legislation.

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92. The processes of perestroika taking place in Byelorussian society are intended to reveal the humanitarian nature of socialist society in all its decisive aspects - economic, social, political and moral. On this basis, the Byelorussian SSR will continue to undertake legislative and other measures in furtherance of the International Covenant on Civil and Political Rights.